

MORTGAGE RESEARCH CENTER, LLC )  
(D/B/A VETERANS UNITED AND )  
VETERANS UNITED HOME LOANS), )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
GOLDWATER BANK, N.A., )  
 )  
Defendant. )  
 )

Case No. 2-16-cv-04132

**JURY TRIAL DEMANDED**

Mortgage Research Center, LLC (d/b/a Veterans United and Veterans United Home Loans) (“Veterans United”) alleges against Defendant Goldwater Bank, N.A. (“Goldwater”) as follows:

1. This lawsuit arises out of Goldwater’s unlawful use of the marks “Veterans Lending Group” and “Veterans National Lending Group,” which are confusingly similar to Veterans United’s federally-registered service marks, in violation of the Trademark Act of 1946, 15 U.S.C. §§ 1051 *et seq.* and the common law of the State of Missouri.

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3. With knowledge of the Veterans United Registered Marks, and without Veterans United's authorization, Goldwater has used and continues to use the marks Veterans Lending Group and Veterans National Lending Group in connection with the sale, offer for sale, and advertising of home mortgage loans to active duty and veteran service members. These acts constitute willful infringement of the Veterans United Registered Marks as well as false designation of origination and/or unfair competition.

4. Goldwater's use of the infringing marks has caused actual confusion in the marketplace.

5. As a result of Goldwater's ongoing willful infringement of the Veterans United Registered Marks and acts of unfair competition, Veterans United has suffered, is suffering, and, unless Goldwater's unlawful acts are enjoined by the Court, will continue to suffer immediate and irreparable injury to its business, reputation, and goodwill for which there is no adequate remedy at law. Veterans United therefore is entitled to injunctive relief and damages as set forth herein.

### **PARTIES**

6. Plaintiff Veterans United is a Missouri limited liability company with its principal place of business at 1400 Veterans United Drive, Columbia, Missouri, 65203.

7. On information and belief, Defendant Goldwater is a nationally-chartered bank incorporated in the State of Arizona with its principal place of business at 7135 East Camelback Road, Suite I-201, Scottsdale, Arizona, 85251.

### **JURISDICTION AND VENUE**

8. The Court has jurisdiction over the subject matter of this action pursuant to 15 U.S.C. § 1121, 28 U.S.C. § 1331, 28 U.S.C. § 1338, and 28 U.S.C. § 1367. The Court has

subject matter jurisdiction over the state law claims pursuant to 28 U.S.C. § 1338(b) and 28 U.S.C. § 1367(a).

9. Goldwater is subject to the Court's specific and general personal jurisdiction pursuant to principles of due process and/or the Missouri long-arm statute, Mo. Rev. Stat. § 506.500, because the acts of infringement and unfair competition identified herein caused injury to Veterans United in this District and the State of Missouri, and because Goldwater regularly conducts business and enters into contracts in this District and the State of Missouri. Goldwater's contacts with this District and the State of Missouri include publishing a website which provides advertisements and information regarding Goldwater's home mortgage loan services to consumers in this District and the State of Missouri and directly solicits business from consumers in this District and the State of Missouri by encouraging such consumers to apply for home mortgage loans through the website. Goldwater's contacts with this District and the State of Missouri also include registering as a foreign corporation and maintaining a registered agent for service of process in the State of Missouri.

10. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c) because a substantial part of the events or omissions giving rise to Veterans United's claims occurred in this District and because Goldwater regularly conducts business and enter into contracts in this District and is subject to personal jurisdiction in this District.

### **BACKGROUND FACTS**

11. Veterans United was founded in 2002 and is a leading provider of home mortgage loans to active duty and veteran members of the United States Armed Forces under the United States Department of Veterans Affairs' ("VA") Home Loan Guaranty Program. Since its founding, Veterans United has provided tens of billions of dollars in VA-guaranteed home

mortgage loans to active duty and veteran service members and has achieved a national reputation as a leader in the VA home loan industry.

12. Veterans United is the owner of the federally-registered service mark “Veterans United,” Registration No. 4,131,122, issued by the United States Patent and Trademark Office (“USPTO”) on April 24, 2012. A copy of the Certificate of Registration for this mark is attached as **Exhibit A**. This mark was first used in commerce in Missouri and throughout the United States at least as early as April 2011.

13. Veterans United also is the owner of the common law service mark “Veterans United Home Loans.” Veterans United has a pending Trademark/Service Mark Application for this mark. The Application was filed on August 14, 2015, and bears Serial No. 86725529. A copy of the Application is attached as **Exhibit B**. This mark was first used in commerce in Missouri and throughout the United States at least as early as April 2011.

14. Veterans United has used the Veterans United Registered Marks in commerce in Missouri and throughout the United States, including in various promotional literature and on each page of Veterans United’s Internet website <http://www.veteransunited.com> (the “Veterans United Website”), to reflect its status as a valuable and unique financial resource for thousands of active duty and veteran service member homebuyers and their families. Representative specimens of Veterans United’s use of the Veterans United Registered Marks in commerce, which Veterans United filed with the USPTO together with its applications for registration of the Veterans United Registered Marks, are attached as **Exhibits C and D**.

15. As a result of years of promotion and use by Veterans United, including the expenditure of substantial amounts of time, effort, and resources, the Veterans United Registered Marks have become well and favorably known to the general public as associated with Veterans

United. Veterans United has established significant goodwill in and public recognition of the Veterans United Registered Marks, which are inherently distinctive and/or have acquired secondary meaning as identifiers of Veterans United and its services.

16. Veterans United displays the Veterans United Registered Marks with a valid trademark registration notice, including on each page of the Veterans United Website, in accordance with 15 U.S.C. § 1111.

17. With knowledge of the Veterans United Registered Marks, Goldwater has knowingly and willfully used, and continues to knowingly and willfully use, the confusingly similar marks Veterans Lending Group and Veterans National Lending Group in connection with Goldwater's own VA home loan business.

18. In or about January 2015, long after Veterans United's first use of the Veterans United Registered Marks in commerce, certain employees of Veterans United's Puyallup, Washington branch left Veterans United and affiliated with Goldwater for the express purpose of competing directly with Veterans United for VA home loan customers using marks similar to the Veterans United Registered Marks.

19. After leaving Veterans United, these former Veterans United employees worked with Goldwater to set up a new Goldwater division named Veterans Lending Group, through which Goldwater sells, offers for sale, and advertises VA-guaranteed home mortgage loans to active duty and veteran service members in direct competition with Veterans United. The Internet website for Veterans Lending Group, located at <http://veteransnationallending.com> (the "Veterans National Website"), states that Veterans Lending Group is a "[d]ivision of GOLDWATER BANK, N.A., NMLS # 452955."

20. As reflected on the Veterans National Website, Goldwater also refers to its VA home loan division as Veterans National Lending Group. For instance, each page of the Veterans National Website refers to Veterans Lending Group and Veterans National Lending Group interchangeably. A copy of an excerpt from the Veterans National Website, showing Goldwater's use of the marks Veterans Lending Group and Veterans National Lending Group in connection with its VA home loan division, is attached as **Exhibit E**.

21. As reflected on the Veterans National Website, the headquarters of Goldwater's VA home loan division are located at 15614 Meridian Avenue East, #400, Puyallup, Washington, 98375—a mere five-minute walk around the corner from Veterans United's Puyallup, Washington branch located at 10514 156<sup>th</sup> Street East, Suite 104, Puyallup, Washington, 98374. *See* Ex. E.

22. As reflected on the Veterans National Website, Goldwater's VA home loan division sells, offers for sale, and advertises VA-guaranteed home mortgage loans to consumers throughout the United States, including those in the State of Missouri. For instance, the Veterans National Website contains a map which displays all states in which Goldwater conducts its VA home loan business. This map, which allows consumers to obtain state-specific information relating to Goldwater's VA-guaranteed home mortgage loans, includes the State of Missouri. *See* Ex. E.

23. Goldwater's use of the confusingly similar marks Veterans Lending Group and Veterans National Lending Group in connection with its VA home loan business is without license or other authorization from Veterans United.

24. On information and belief, Goldwater's unauthorized use of the confusingly similar marks Veterans Lending Group and Veterans National Lending Group has caused several

instances of actual confusion, mistake, and/or deception among consumers as to affiliation, connection, or association by creating the false impression that VA home loan services provided by Goldwater are provided, authorized, or endorsed by, or in some manner associated with, Veterans United.

25. For example, in April 2016, at least one Veterans United customer mistakenly contacted Goldwater's VA home loan division headquarters under the mistaken belief that "Veterans National Lending Group" referred to Veterans United. Also in April 2016, at least two Goldwater VA home loan customers visited Veterans United's Puyallup, Washington branch under the mistaken belief that their Goldwater loan officers—both former employees of Veterans United's Puyallup, Washington branch—were affiliated with Veterans United.

26. As a result of the confusion engendered by Goldwater's unauthorized use of the confusingly similar marks Veterans Lending Group and Veterans National Lending Group in connection with Goldwater's sale, offer for sale, and advertising of VA-guaranteed home mortgage loans, Goldwater has gained and continues to gain customers, profits, and other benefits unlawfully and to the detriment of Veterans United. Goldwater's unlawful acts also have diminished and continue to diminish Veterans United's significant goodwill symbolized by the Veterans United Registered Marks, which Veterans United achieved through the investment of substantial amounts of time, effort, and resources.

27. Unless enjoined by the Court, Goldwater's unlawful use of the confusingly similar marks Veterans Lending Group and Veterans National Lending Group in connection with Goldwater's sale, offer for sale, and advertising of VA-guaranteed home mortgage loans is likely to continue to cause confusion, mistake, and/or deception among consumers as to affiliation, connection, or association by creating the false impression that VA home loan services provided

by Goldwater are provided, authorized, or endorsed by, or in some manner associated with, Veterans United. This confusion, mistake, and/or deception has caused and, unless Goldwater's unlawful acts are enjoined by the Court, will continue to cause irreparable harm to the reputation and goodwill symbolized by the Veterans United Registered Marks.

**COUNT I**  
**(Federal Service Mark Infringement – 15 U.S.C. § 1114)**

28. Veterans United re-alleges and incorporates herein by reference all preceding paragraphs as if fully set forth herein.

29. Veterans United is the owner of the Veterans United Registered Marks, which are inherently distinctive and/or have acquired secondary meaning as identifiers of Veterans United and its services.

30. Goldwater has used and continues to use the confusingly similar marks Veterans Lending Group and Veterans National Lending Group in interstate commerce in connection with Goldwater's sale, offer for sale, and advertising of VA-guaranteed home mortgage loans to active duty and veteran service members, willfully and in conscious disregard of Veterans United's rights as owner of the Veterans United Registered Marks, in violation of 15 U.S.C. § 1114.

31. Goldwater's use of the confusingly similar marks Veterans Lending Group and Veterans National Lending Group has caused and, unless enjoined by the Court, is likely to continue to cause confusion, mistake, and/or deception among consumers as to affiliation, connection, or association by creating the false impression that VA home loan services provided by Goldwater are provided, authorized, or endorsed by, or in some manner associated with, Veterans United.



32. Goldwater's actions demonstrate an intentional, willful, and malicious intent to trade on the goodwill associated with the Veterans United Registered Marks, to the great and irreparable injury of Veterans United for which there is no adequate remedy at law.

33. Goldwater's unlawful acts and practices have caused and, unless enjoined by the Court, will continue to cause substantial and irreparable injury to the public and to Veterans United, and Veterans United is entitled to preliminary and permanent injunctive relief and to recover, in addition to its actual damages, Goldwater's profits, enhanced profits and damages, costs, and reasonable attorney fees pursuant to 15 U.S.C. §§ 1114, 1116, and 1117.

**COUNT II**  
**(Common Law Service Mark Infringement)**

34. Veterans United re-alleges and incorporates herein by reference all preceding paragraphs as if fully set forth herein.

35. Veterans United is the owner of the Veterans United Registered Marks, which are inherently distinctive and/or have acquired secondary meaning as identifiers of Veterans United and its services.

36. Goldwater has knowingly and willfully used and continues to knowingly and willfully use the confusingly similar marks Veterans Lending Group and Veterans National Lending Group in connection with Goldwater's sale, offer for sale, and advertising of VA-guaranteed home mortgage loans to active duty and veteran service members.

37. Goldwater's use of the confusingly similar marks Veterans Lending Group and Veterans National Lending Group has caused and, unless enjoined by the Court, is likely to continue to cause confusion, mistake, and/or deception among consumers as to affiliation, connection, or association by creating the false impression that VA home loan services provided

by Goldwater are provided, authorized, or endorsed by, or in some manner associated with, Veterans United.

38. Goldwater's actions constitute service mark infringement in violation of the common law of the State of Missouri.

39. Goldwater's actions demonstrate an intentional, willful, and malicious intent to trade on the goodwill associated with the Veterans United Registered Marks, to the great and irreparable injury of Veterans United for which there is no adequate remedy at law.

40. Goldwater's unlawful acts and practices have caused and, unless enjoined by the Court, will continue to cause substantial and irreparable injury to the public and to Veterans United, and Veterans United is entitled to preliminary and permanent injunctive relief and to recover, in addition to its actual damages, Goldwater's profits, enhanced profits and damages, costs, and reasonable attorney fees.

**COUNT III**  
**(Federal Unfair Competition – 15 U.S.C. § 1125(a))**

41. Veterans United re-alleges and incorporates herein by reference all preceding paragraphs as if fully set forth herein.

42. Veterans United is the owner of the Veterans United Registered Marks, which are inherently distinctive and/or have acquired secondary meaning as identifiers of Veterans United and its services.

43. Goldwater has knowingly and willfully used and continues to knowingly and willfully use the confusingly similar marks Veterans Lending Group and Veterans National Lending Group in connection with Goldwater's sale, offer for sale, and advertising of VA-guaranteed home mortgage loans to active duty and veteran service members.

44. Goldwater's use of the confusingly similar marks Veterans Lending Group and Veterans National Lending Group has caused and, unless enjoined by the Court, is likely to continue to cause confusion, mistake, and/or deception among consumers as to affiliation, connection, or association by creating the false impression that VA home loan services provided by Goldwater are provided, authorized, or endorsed by, or in some manner associated with, Veterans United.

45. Goldwater's actions constitute false designation of origin in violation of 15 U.S.C. § 1125(a).

46. Goldwater's actions demonstrate an intentional, willful, and malicious intent to trade on the goodwill associated with the Veterans United Registered Marks, to the great and irreparable injury of Veterans United for which there is no adequate remedy at law.

47. Goldwater's unlawful acts and practices have caused and, unless enjoined by the Court, will continue to cause substantial and irreparable injury to the public and to Veterans United, and Veterans United is entitled to preliminary and permanent injunctive relief and to recover, in addition to its actual damages, Goldwater's profits, enhanced profits and damages, costs, and reasonable attorney fees pursuant to 15 U.S.C. §§ 1125, 1116, and 1117.

**COUNT IV**  
**(Common Law Unfair Competition)**

48. Veterans United re-alleges and incorporates herein by reference all preceding paragraphs as if fully set forth herein.

49. Veterans United is the owner of the Veterans United Registered Marks, which are inherently distinctive and/or have acquired secondary meaning as identifiers of Veterans United and its services.

50. Goldwater has knowingly and willfully used and continues to knowingly and willfully use the confusingly similar marks Veterans Lending Group and Veterans National Lending Group in connection with Goldwater's sale, offer for sale, and advertising of VA-guaranteed home mortgage loans to active duty and veteran service members.

51. Goldwater's use of the confusingly similar marks Veterans Lending Group and Veterans National Lending Group has caused and, unless enjoined by the Court, is likely to continue to cause confusion, mistake, and/or deception among consumers as to affiliation, connection, or association by creating the false impression that VA home loan services provided by Goldwater are provided, authorized, or endorsed by, or in some manner associated with, Veterans United.

52. Goldwater's actions constitute unfair competition in violation of the common law of the State of Missouri.

53. Goldwater's actions demonstrate an intentional, willful, and malicious intent to trade on the goodwill associated with the Veterans United Registered Marks, to the great and irreparable injury of Veterans United for which there is no adequate remedy at law.

54. Goldwater's unlawful acts and practices have caused and, unless enjoined by the Court, will continue to cause substantial and irreparable injury to the public and to Veterans United, and Veterans United is entitled to preliminary and permanent injunctive relief and to recover, in addition to its actual damages, Goldwater's profits, enhanced profits and damages, costs, and reasonable attorney fees.

#### **PRAYER FOR RELIEF**

WHEREFORE, Veterans United respectfully prays for a judgment against Goldwater as follows:

(a) A judgment that Goldwater has infringed the Veterans United Registered Marks in violation of 15 U.S.C. § 1114 and/or the common law of the State of Missouri;

(b) A judgment that Goldwater has engaged in unfair competition in violation of 15 U.S.C. § 1125(a) and/or the common law of the State of Missouri;

(c) A preliminary and permanent injunction restraining Goldwater, its officers, directors, principals, employees, agents, attorneys, representatives, affiliates, and all persons in active concert or participation with one or more of them, from further infringement of the Veterans United Registered Marks, and from further acts of unfair competition;

(d) An award of all monetary damages to which Veterans United is entitled by law for Goldwater's past and continuing infringement of the Veterans United Registered Marks and past and continuing acts of unfair competition, including the greater of three times Goldwater's profits or three times any damages sustained by Veterans United on account of Goldwater's acts of infringement and unfair competition, and an order requiring a full accounting of the same;

(e) An award of Veterans United's costs incurred in bringing and prosecuting this action;

(f) A finding that this is an exceptional case pursuant to 15 U.S.C. § 1117(a) and an associated award of Veterans United's costs and reasonable attorney fees and disbursements incurred in bringing and prosecuting this action;

(g) An assessment of interest, both pre- and post-judgment, on the damages awarded; and

(h) Any other and further relief that the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Fed. R. Civ. P. 38(b), Veterans United hereby demands a jury trial on all issues so triable.

Date: May 3, 2016

Respectfully submitted,

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